IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 5TH FEBRUARY 2007 / 16TH MAGHA 1928

Bail Appl..No. 579 of 2007()

CRIME NO.284/02 OF KONDOTTY POLICE STATION

: PETITIONER/ACCUSEDF NO.4.

V.B.MOHAMMEDKUTTY, S/O. BAPPU,
AGED 49 YEARS, RESIDING AT VATTAPPARAMBIL HOUSE,
P.O.KADANGODU, VIA- KUNNAMKULAM, THRISSUR.

BY ADV. SRI.C.S.MANU
SRI.S.K.PREMRAJ

RESPONDENTS: COMPLAINANT & INVESTIGATING OFFICER.

---

1. STATE OF KERALA-REPRESENTED BY THE
CIRCLE INSPECTOR OF POLICE, KONDOTTY POLICE
STATION, KONDOTTY REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

2. S.P. CRIME BRANCH, PALAKKAD.

BY DGP SHRI P.G.THAMPI

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

- - - - - - - - - - - - - - - - -

BAIL APPLICATION NO. 579 OF 2007

- - - - - - - - - ---------- - - - - -

DATED THIS THE 5TH DAY OF FEBRUARY, 2007

O R D E R

Petitioner who is the 4th accused in Crime No.284/02 of Kondotty Police Station for offences punishable under sections 120B and 384 read with section 34 IPC and sections 7, 8, 13(1)(b) and 13(2) of the Prevention of Corruption Act, 1988, seeks his enlargement on bail. Petitioner surrendered before the Investigating Officer as directed by this court in the order dated 10.1.2007 in B.A.7206/06 and after interrogation he was produced before the Magistrate on 24.1.2007 and he was remanded to judicial custody where he continues.

2. Counsel for the petitioner raised a contention that since offences under the Prevention of Corruption Act are also involved against a Customs Officer who is a public servant removable by the Central Government, the investigation should have been transferred to the Central Bureau of Investigation and the Special Court (SPE CBI) alone should have considered the matter thereafter.

3. Shri P.G.Thampi, the learned Director General of Prosecution submitted that noticing this aspect of the matter the Crime Branch Police had forwarded the files to the CBI and they had approved the investigation and had permitted the Crime Branch Police

to continue with the investigation. If so, the petitioner cannot have any grievance about the investigation being conducted by the State Police especially when it is not the petitioner who is the public servant concerned.

4. The learned Director General of Prosecution submitted that but for the revision filed by the petitioner before the Sessions Court, Manjeri, a custody application filed before the Magistrate should have disposed of in which case, he would not have been raised any objection in granting bail to the petitioner. If a petition for police custody of the petitioner is pending before the Magistrate, he cannot be granted bail till the disposal of the said petition. Accordingly, the J.F.c.M.-I, Malappuram shall release the petitioner on bail on appropriate conditions safeguarding the interest of the prosecution, including the condition to surrender his passport after the disposal of the custody application, if any pending before him.

This application is disposed of as above.

V.RAMKUMAR, JUDGE

dsn